Indiana Rules of Court <u>Draft</u> Indiana Parenting Time Guidelines *** January 2012***

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RULES

PARENTING TIME RULE 1. ADOPTION OF PARENTING TIME RULES AND GUIDELINES

The Indiana Supreme Court hereby adopts the Indiana Parenting Time Guidelines, as drafted by the Domestic Relations Committee and adopted by the Board of the Judicial Conference of Indiana and all subsequent amendments thereto presented by the Domestic Relations Committee of the Judicial Conference of Indiana, as the Parenting Time Rules and Guidelines of this Court.

PARENTING TIME RULE 2. PRESUMPTION

In any proceeding for the award of parenting time, there is a presumption that the application of Indiana Parenting Time Guidelines shall result in the statutorily required "reasonable parenting time."

PARENTING TIME RULE 3. ADOPTION OF PARENTING COORDINATION GUIDELINES

The Indiana Supreme Court hereby adopts the Indiana Guidelines for Parenting Coordination, as drafted by Domestic Relations Committee and Alternative Dispute Resolution Committee of the Judicial Conference of Indiana, and adopted by the Board of the Judicial Conference of Indiana and all subsequent amendments thereto presented by the Domestic Relations Committee of the Judicial Conference of Indiana, as the Parenting Coordination Guidelines of this Court.

PARENTING TIME RULE 4. PARENTING COORDINATOR IMMUNITY

A court appointed Parenting Coordinator serving under the Indiana Guidelines for Parenting Coordination shall have immunity in the same manner and to the same extent as a registered mediator serving under the Indiana Rules for Alternative Dispute Resolution in the State of Indiana.

PARENTING TIME RULE 5. PARENTING COORDINATOR COMMISSION REGISTRY, ACCOUNTABILITY, AND DISCIPLINE

A person who serves as a Parenting Coordinator under the Indiana Guidelines for Parenting Coordination must register with the Indiana Supreme Court Commission for Continuing Legal Education, and shall be subject to accountability and discipline as sort forth in the Indiana Guidelines for Parenting Coordination.

GUIDELINES

PREAMBLE

The Indiana **Parenting Time Guidelines** are based on the premise that it is usually in a child's best interest to have frequent, meaningful and continuing contact with each parent. It is assumed that both parents nurture their child in important ways, significant to the development and well being of the child. The Guidelines also acknowledge that scheduling parenting time is more difficult when separate households are involved and requires persistent effort and communication between parents to promote the best interest of the children involved. The purpose of these guidelines is to provide a model which may be adjusted depending upon the unique needs and circumstances of each family.

These guidelines are based upon the developmental stages of children. The members of the Domestic Relations Committee of the Judicial Conference of Indiana developed the guidelines after reviewing the current and relevant literature concerning visitation, the visitation guidelines of other geographic areas, and the input of child development experts and family law practitioners. Committee members also relied upon data from surveys of judges, attorneys, and mental health professionals who work with children, reviews of court files, and a public hearing.

A child whose parents live apart has special needs related to the parent-child relationship. A child's needs and ability to cope with the parent's situation change as the child matures. Parents should consider these needs as they negotiate parenting time. They should be flexible and create a parenting time agreement which addresses the unique needs of the child and their circumstances.

Parents and attorneys should always demonstrate a spirit of cooperation. The Indiana Parenting

Time Guidelines are designed to assist parents and courts in the development of their own parenting plans. and In the event the parties cannot create their own parenting time agreement, these guidelines represent the minimum time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

A. A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

- 1. To know that the parents' decision to live apart is not the child's fault.
- **2.** To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
- **3.** To be free from having to side with either parent and to be free from conflict between the parents.
- **4.** To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
- **5.** To enjoy regular and consistent time with each parent.
- **6.** To be financially supported by each parent, regardless of how much time each parent spends with the child.
- 7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.
- **8.** To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

Commentary

- 1. Purpose of Commentary Following Rule. Throughout these Guidelines many of the rules are followed by a commentary further explaining the rule or setting forth the child centered philosophy behind the rule. The commentary is not an enforceable rule but provides guidance in applying the rule.
- **12. Use of Term "Parenting Time."** Throughout these Guidelines the words "parenting time" have been used instead of the word "visitation" so as to emphasize the importance of the time a parent <u>spends</u> with a child. The concept that a non-custodial parent "visits" with a child does not convey the reality of the continuing parent-child relationship.

- **23. Minimum Time Concept.** The concept that these Guidelines represent the minimum time a non-custodial parent should spend with a child when the parties are unable to reach their own agreement. These guidelines should not be interpreted as a limitation of time imposed by the court. They are not meant to foreclose the parents from agreeing to, or the court from granting, such additional or reduced parenting time as may be reasonable in the best interest of the child in any given case. In addressing all parenting time issues, both parents should exercise sensibility, flexibility and reasonableness.
- 4. Parenting Time Plans or Calendars. It will often be helpful for the parents to actually create a year-long parenting time calendar or schedules. This may include a calendar in which the parties have charted an entire year of parenting time. Forecasting a year ahead helps the parents anticipate and plan for holidays, birthdays, and school vacations. The parenting time calendar may include agreed upon deviations from the Guidelines, which recognize the specialized needs of the children and parents. Parenting Time Calendars may be helpful in arranging holidays, extended summer, and/or when the parents live at a distance and frequent travel arrangements are needed.

<u>Useful websites to develop Parenting Time Plans:</u>

Arizona Parenting Time Guidelines, available at:

http://www.azcourts.gov/Portals/31/ParentingTime/PPWguidelines.pdf

Michigan Parenting Time Guidelines, available at:

http://www.courts.michigan.gov/scao/resources/publications/manuals/focb/pt_gdlns.pdf

Missouri Parenting Plan Guidelines, available at:

http://www.courts.mo.gov/sup/index.nsf/0/629aab74004234eb862566e2006b5181/\$FILE/plan.PDF

3. Purpose of Commentary Following Rule. Throughout these Guidelines many of the rules are followed by a commentary further explaining the rule or setting forth the child centered philosophy behind the rule. The commentary is not an enforceable rule but provides guidance in applying the rule.

B. SCOPE OF APPLICATION

- 1. Generally. These Guidelines are applicable to all child custody situations, including paternity cases and cases involving joint legal custody where one person has primary physical custody. However, they are not applicable to situations involving family violence, substance abuse, risk of flight with a child, or any other circumstances the court reasonably believes endanger the child's physical health or safety, or significantly impair the child's emotional development. In such cases one or both parents may have legal, psychological, substance abuse or emotional problems that may need to be addressed before these Guidelines can be employed. The type of help that is needed in such cases is beyond the scope of these Guidelines.
- 2. **High conflict parents**. The volatile relationship between high conflict parents adversely affects the children even though the parents are individually fit and able to nurture the children safely. "High conflict parents" mean parties who demonstrate a pattern of ongoing litigation, chronic anger and distrust, inability to communicate about and cooperate in the care of the child, or other behaviors placing the child's well-being at risk. In such cases the court should deviate from these parenting time guidelines under Sections I, II, and III, to reduce the adverse effects on the child. The contact between high conflict parents should be minimized or eliminated, at least until the parental conflict is under control. Guideline V. discusses parallel parenting, which is one approach to reducing the conflict. A model parallel parenting plan order is provided in Appendix B.

A parenting coordinator or counselor can help with the process of reducing conflict. Section IV. addresses parent coordinators.

Commentary

2. Amendments. Amendments to Variance from the Indiana Parenting Time Guidelines does not alone constitute good cause for amendment of an existing parenting time visitation order; however, a court or parties to a proceeding may refer to these guidelines in making changes to a parenting time order after the effective date of the guidelines.

Commentary

Existing parenting time orders on the date of adoption of these amendments shall be interpreted according to the parenting time guidelines that were in effect on the date the parenting time order was issued.

23. Presumption. There is a presumption that the Indiana Parenting Time Guidelines are applicable in all cases covered by these guidelines. Any Ddeviations from these Guidelines by either the parties or the court that results in parenting time that is less than the minimum time set forth below must be accompanied by a written explanation indicating why the deviation is necessary or appropriate in the case.

Commentary

The written explanation need not be as formal as Findings of Fact and Conclusions of Law; however, it must state the reason(s) for the deviation. <u>A court is not required to give a written explanation as to why a mother or father is awarded more time with the child than the minimum in these guidelines.</u>

Because the parenting time guidelines are minimum standards, it is recommended parents and courts not "default" to these guidelines in lieu of a consideration of the best parenting time plan.

A CHILD'S BASIC NEEDS

To insure more responsible parenting and to promote the healthy adjustment and growth of a child each parent should recognize and address a child's basic needs:

- 1. To know that the parents' decision to live apart is not the child's fault.
- **2.** To develop and maintain an independent relationship with each parent and to have the continuing care and guidance from each parent.
- **3.** To be free from having to side with either parent and to be free from conflict between the parents.
- **4.** To have a relaxed, secure relationship with each parent without being placed in a position to manipulate one parent against the other.
- 5. To enjoy regular and consistent time with each parent.
- **6.** To be financially supported by each parent, regardless of how much time each parent spends with the child.
- 7. To be physically safe and adequately supervised when in the care of each parent and to have a stable, consistent and responsible child care arrangement when not supervised by a parent.

8. To develop and maintain meaningful relationships with other significant adults (grandparents, stepparents and other relatives) as long as these relationships do not interfere with or replace the child's primary relationship with the parents.

SECTION I. GENERAL RULES APPLICABLE TO PARENTING TIME

A. COMMUNICATIONS

- 1. Between Parents. Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. Notice of any change in this information shall be given to the other parent in writing. All communications concerning a child shall be conducted between the parents. Any communication shall occur at reasonable times and places unless circumstances require otherwise. A child shall not be used to exchange documents or financial information between parents.
- 2. With A Child Generally. A child and a parent shall be entitled to private communications without interference from the other parent. A child shall never be used by one parent to spy or report on the other. Each parent shall encourage the child to respect and love the other parent. Parents shall at all times avoid speaking negatively about each other in or near the presence of the child, and they shall firmly discourage such conduct by relatives or friends.
- **3. With A Child By Telephone.** Both parents shall have reasonable phone access to their child at all times. Telephone communication with the child by either parent to the residence where the child is located shall be conducted at reasonable hours, shall be of reasonable duration, and at reasonable intervals, without interference from the other parent.

If a parent uses an answering machine, voice mail or a pager, messages left for a child shall be promptly communicated to the child and the call returned.

Commentary

Parents should agree on a specified time for telephone calls so that a child will be available to receive the call. The parent initiating the call should bear the expense of the call. A child may, of course, call either parent, though at reasonable hours, frequencies, and at the cost of the parent called if it is a long distance call.

Examples of unacceptable interference with communication include a parent refusing to answer a phone or refusing to allow the child or others to answer; a parent recording phone conversations between the other parent and the child; turning off the phone or using a call blocking mechanism or otherwise denying the other parent telephone contact with the child.

4. With A Child By Mail. A parent and a child shall have a right to communicate privately by email and faxes, and by cards, letters, and packages, without interference by the other parent.

Commentary

A parent should not impose obstacles to mail communications. For example, if a custodial parent has a rural address, the parent should maintain a mailbox to receive mail at that address. A parent who receives a communication for a child shall promptly deliver it to the child.

- 5. **Electronic Communication.** The same provisions above apply to electronic communications of any kind. However, these provisions shall not be construed to interfere with the authority of either parent to impose reasonable restrictions to a child's access to the Internet.
- **5. _6. Emergency Notification.** For emergency notification purposes, whenever a child travels out of the area with either parent, one of the following shall be provided to the other parent: An itinerary of travel dates, destinations, and places where the child or the traveling parent can be reached, or the name and telephone number of an available third person who knows where the child or parent may be located.

7. Communication between parents and children. Each parent is encouraged to promote a positive relationship between the children and the other parent. It is important, therefore, that communication remain open, positive and frequent. Regular phone contact is an important tool in maintaining a parent/child relationship as well as other forms of contact such as letter, e-mail and other more technologically advanced communications systems such as video chat and Skype. Parents shall not block reasonable phone or other communication access between a parent and child or monitor such communications. A parent who receives a communication for a child shall promptly deliver it to the child. Both parents shall promptly provide the other parent with updated cell and landline phone numbers and e-mail addresses when there has been a change.

Commentary

It is important for children to have as much contact with both parents as possible. Interference with reasonable communication between a parent and child, including monitoring of that communication is destructive not only to the children's relationship with the other parent, but are also destructive to the children. Attempts to block access to and contact with the other parent may violate these parenting time guidelines. These types of behaviors may lead to sanctions, a change of parenting time, or in some cases, a change of custody. The prohibition applies equally to the custodial as well as the non-custodial parent.

B. IMPLEMENTING PARENTING TIME

1. Transportation Responsibilities. Unless otherwise agreed between the parents, the non-custodial parent shall provide transportation for the child at the start of the scheduled parenting time and the custodial parent shall provide transportation for the child at the end of the scheduled parenting time.

Commentary

- 1. Presence Of Both Parents. Both parents should be present at the time of the exchange and should make every reasonable effort to personally transport the child. On those occasions when a parent is unable to be present at the time of the exchange or it becomes necessary for the child to be transported by someone other than a parent, this should be communicated to the other parent in advance if possible. In such cases, the person present at the exchange, or transporting the child, should be a responsible adult with whom the child is familiar and comfortable.
- **2. Distance/Cost As Factors.** Where the distance between the parents' residences is such that extended driving time is necessary, the parents should agree on a location for the exchange of the child. The cost of transportation should be shared based on consideration of various factors, including the distance involved, the financial resources of the parents, the reason why the distances exist, and the family situation of each parent at that time.
- **3. Parental Hostility.** In a situation where hostility between parents makes it impracticable to exchange a child at the parents' residences, the exchange of the child should take place at a neutral site.
- **2. Punctuality.** Each parent shall have the child ready for exchange at the beginning and at the end of the scheduled parenting time and shall be on time in picking up and returning the child. The parents shall communicate as early as possible regarding any situation that would interfere with the timely exchange of the child. Both parents have a duty to communicate any time the exchange is delayed. When no communication is initiated by the delaying parent, and pick up or return of a child does not occur within a reasonable time, the time and conditions of the exchange may be rescheduled at the discretion of the parent not responsible for the delay.

Punctuality is a matter of courtesy. Parents should make every effort to pick up and return a child at the agreed time, and not substantially earlier or later. Parents should recognize, however, that circumstances occur that require leeway in the scheduled times. Phone calls are always appropriate when there will be a delay.

3. Clothing. The custodial parent shall send an appropriate and adequate supply of clean clothing with the child and the non-custodial parent shall return such clothing in a clean condition. Each parent shall advise the other, as far in advance as possible, of any special activities so that the appropriate clothing may be available to the child.

Commentary

It is the responsibility of both parents to ensure their child is properly clothed. The non-custodial parent may wish to have a basic supply of clothing available for the child at his or her home.

4. Privacy of Residence. A parent may not enter the residence of the other, except by express invitation, regardless of whether a parent retains a property interest in the residence of the other. Accordingly, the child shall be picked up at the front entrance of the appropriate residence unless the parents agree otherwise. The person delivering the child shall not leave until the child is safely inside.

C. CHANGES IN SCHEDULED PARENTING TIME

Introduction

Parents should recognize there will be occasions when modification of the existing parenting schedule will be necessary. Parents should exercise reasonable judgment in their dealings with each other and with their child. Parents should be flexible in scheduling parenting time and should consider the benefits to the child of frequent, meaningful and regular contact with each parent and the schedules of the child and each parent.

1. Scheduled Parenting Time To Occur As Planned. Parenting time is both a right and a responsibility, and scheduled parenting time shall occur as planned. Both custodial and noncustodial parents are jointly responsible for following the parenting time orders. Children shall not make parenting time decisions. If a parent is unable to provide personal care for the child during scheduled parenting time, then that parent shall provide alternate child care or pay the reasonable costs of child care caused by the failure to exercise the scheduled parenting time.

Commentary

Parents should understand it is important for a child to experience consistent and ongoing parenting time. A child is entitled to rely on spending time with each parent in a predictable way and adjusts better after a routine has been established and followed. A parent who consistently cancels scheduled parenting time sends a very harmful message to the child that the child is not a priority in that parent's life. In addition to disappointing a child, the voluntary cancellation of scheduled parenting time by one parent may interfere with the plans of the other parent or cause the other parent to incur child care and other costs.

Parents share a joint and equal responsibility for following parenting time orders. A child shares none of this responsibility and should not be permitted to shoulder the burden of this decision. See also Section E. 3.

Unacceptable excuses for denying parenting time include the following:

The child unjustifiably hesitates or refuses to go.

The child has a minor illness.

The child has to go somewhere.

The child is not home.

The noncustodial parent is behind in support.

The custodial parent does not want the child to go.

The weather is bad.

The child has no clothes to wear.

The other parent failed to meet preconditions established by the custodial parent.

2. Adjustments to Schedule / "Make Up" Time. Whenever there is a need to adjust the established parenting schedules because of events outside the normal family routine, the parent who becomes aware of the circumstance shall notify the other parent as far in advance as possible. Both parents shall then attempt to reach a mutually acceptable adjustment to the parenting schedule.

If an adjustment results in one parent losing scheduled parenting time with the child, "make-up" time should be exercised as soon as possible. If the parents cannot agree on "make-up" time, the parent who lost the time shall select the "make-up" time within one month of the missed time.

Commentary

There will be occasions when scheduled parenting times may need to be adjusted because of illnesses or special family events such as weddings, funerals, reunions, and the like. Each parent should accommodate the other in making the adjustment so that the child may attend the family event. After considering the child's best interests, the parent who lost parenting time may decide to forego the "make-up" time.

3. Opportunity for Additional Parenting Time. When it becomes necessary that a child be cared for by a person other than a parent or a <u>responsible household</u> family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time, <u>if providing the child care by the other parent is practical considering the time available and the distance between residences.</u> The other parent is under no obligation to provide the child care. If the other parent elects to provide this care, it shall be done at no cost, <u>and without effecting child support.</u> The parent exercising additional parenting time shall provide the necessary transportation unless the parties otherwise agree.

Commentary

The rule providing for opportunities for additional parenting time promotes the concept that a child receives greater benefit from being with a parent rather than a child care provider: who is not a household family member. It is also intended to be practical. When a parent's work schedule or other regular recurring activities require hiring or arranging for a child care provider; who is not a household family member, the other parent should be given the opportunity to provide the care. Distance, transportation or time may make the rule impractical. The period of absence which triggers the exchange will vary depending upon the circumstances of the parties. Parents should agree on the amount of child care time and the circumstances that require the offer be made. It is presumed that this rule applies in all cases which the guidelines cover; however, the parties or a trial court may, within discretion, determine that a deviation is necessary or appropriate. Any such deviation must be accompanied by a written explanation. See Shelton v. Shelton, 840 N.E.2d 835 (Ind. 2006)

This section is sometimes mistakenly referred to as the "right of first refusal." It is more accurate to refer to this section as an opportunity to exercise additional parenting time.

D. EXCHANGE OF INFORMATION

Commentary

Introduction

___A child may suffer inconvenience, embarrassment, and physical or emotional harm when parents fail to actively obtain and share information. Parents should obtain and share information about their children. Parents should take the initiative to obtain information about their child from the various providers of services. Each parent is responsible to establish a relationship with the child's school, health care provider and other service provider. A child may suffer inconvenience, embarrassment, and physical or emotional harm when parents fail to actively obtain and share information.

1. School Records. Under Indiana law, both parents are entitled to direct access to their child's school records, Indiana Code § 20-33-7-2. Each parent should obtain school information on their own without depending on the other parent. shall promptly provide the other with copies of a child's grade reports and notices from school as they are received. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child. The noncustodial parent shall be listed as an emergency contact unless there are special circumstances concerning child endangerment.

Commentary

Under Indiana law, both parents are entitled to direct access to their child's school records, Indiana Code § 20-33-7-2.

2. School Activities. Each parent shall promptly notify the other parent of all <u>information</u> <u>about</u> school activities, <u>which is not accessible to the other parent</u>. A parent shall not interfere with the right of the other parent to communicate directly with school personnel concerning a child's school activities. The parent exercising parenting time shall be responsible to transport the child to school related activities.

Commentary

Each parent with knowledge of the child's event should promptly inform the other parent of the date, time, place and event. The opportunity for a child to attend a school function should not be denied solely because a parent is not able to attend the function. In such instance, I the child should be permitted to attend the function with the available parent. Scheduled parenting time should not be used as an excuse to deny the child's participation in school related activities, including practices and rehearsals.

3. Other Activities. Each parent shall promptly notify the other parent of all organized events in a child's life which permit parental and family participation. A parent shall not interfere with the opportunity of the other parent to volunteer for or participate in a child's activities.

Commentary

Each parent should have the opportunity to participate in other activities involving the child even that activity does not occur during his or her parenting time. This includes activities such as church functions, athletic events, scouting and the like. It is important to understand that a child is more likely to enjoy these experiences when support by both parents.

A child is more likely to enjoy these experiences when supported by both parents. Each parent should have the opportunity to participate in other activities involving the child even if that activity does not occur during his or her parenting time. This includes activities like church functions, athletic events, scouting, school photographs, etc.

- **4. Health Information.** Under Indiana law, both parents are entitled to direct access to their child's medical records, Indiana Code § 16-39-1-7; and mental health records, Indiana Code § 16-39-2-9.
- <u>a.</u> If a child is undergoing evaluation or treatment, the custodial parent shall communicate that fact to the non-custodial parent.

- <u>b.</u> Each parent shall immediately notify the other of any medical emergencies or illness of the child that requires medical attention.
- c. If a child is taking prescription or nonprescription medication or under a health care directive, the custodial parent shall provide the noncustodial parent with a sufficient amount of medication with and instructions whenever the noncustodial parent is exercising parenting time. Medical instructions from a health care provider shall be followed.
- <u>d.</u> <u>If necessary</u>, <u>Tthe custodial parent shall give written authorization to the child's health care providers, permitting an ongoing release of all information regarding the child to the non-custodial parent including the right of the provider to discuss the child's situation with the non-custodial parent.</u>

Each parent has the responsibility to become informed and participate in ongoing therapies and treatments prescribed for a child and to ensure that medications are administered as prescribed. An evaluation or treatment for a child includes medical, dental, educational, and mental health services.

Under Indiana law, both parents are entitled to direct access to their child's medical records, Indiana Code § 16-39-1-7; and mental health records, Indiana Code § 16-39-2-9.

5. Insurance. A parent who has insurance coverage on the child shall supply the other parent with current insurance cards, an explanation of benefits, and a list of insurer-approved or HMO-qualified health care providers in the area where each parent lives. If the insurance company requires specific forms, the insured parent shall provide those forms to the other parent.

Commentary

Qualified health care orders may permit the parent to communicate with the medical health care insurance provider.

E. RESOLUTION OF PROBLEMS

- **1. Disagreements Generally.** When a disagreement occurs regarding parenting time and the requirements of these Guidelines, both parents shall make every effort to discuss options, including mediation, in an attempt to resolve the dispute before going to court.
- **2. Mediation.** If court action is initiated, the parents shall enter into mediation unless otherwise ordered by the court.
- **3. Child Hesitation.** If a child is reluctant to participate in parenting time, each parent shall be responsible to ensure the child complies with the scheduled parenting time. In no event shall a child be allowed to make the decision on whether scheduled parenting time takes place.

Commentary

In most cases, when a child hesitates to spend time with a parent, it is the result of naturally occurring changes in the life of a child. The child can be helped to overcome hesitation if the parents listen to the child, speak to each other and practically address the child's needs.

Parents should inquire why a child is reluctant to spend time with a parent. If a parent believes that a child's safety is compromised in the care of the other parent, that parent should take steps to protect the child, but must recognize the rights of the other parent. This situation must be promptly resolved by both parents. Family counseling may be appropriate. If the parents cannot resolve the situation, either parent may seek the assistance of the court.

4. Relocation. When either parent or other person who has custody or parenting time considers a change of residence, a 90 day advance notice of the intent to move must be provided to the other parent or person.

- 1. Impact Of Move. Parents should recognize the impact that a change of residence may have on a child and on the established parenting time. The welfare of the child should be a priority in making the decision to move.
- 2. Indiana Law. Indiana law (Ind. Code § 31-17-2.2) requires all individuals who have (or who are seeking) child custody or parenting time, and who intend to relocate their residence to provide Notice to an individual who has (or is seeking) child custody, parenting time or grandparent visitation. The Notice must be made by registered or certified mail not later than 90 days before the individual intends to move. The relocating party's Notice must provide certain specified and detailed information about the move. This information includes: the new address; new phone numbers; the date of the proposed move; a stated reason for the move; a proposed new parenting time schedule; and must include certain statements regarding the rights of the non-relocating party. The Notice must also be filed with the Court. The notice is required for all proposed moves by custodial and non custodial parents in all cases when the proposed move involves a change of the primary residence for a period of at least sixty (60) days. This is true even when a person plans to move across the street or across town, and when a party plans on moving across the state or the country, or to another country.
- **5. Withholding Support or Parenting Time.** Neither parenting time nor child support shall be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for noncompliance. A child has the right both to support and parenting time, neither of which is dependent upon the other. If there is a violation of either requirement, the remedy is to apply to the court for appropriate sanctions.

6. Enforcement of Parenting Time.

- A. *Contempt Sanctions*. Court orders regarding parenting time must be followed by both parents. Unjustified violations of any of the provisions contained in the order may subject the offender to contempt sanctions. These sanctions may include fine, imprisonment, and/or community service.
- B. *Injunctive Relief*. Under Indiana law, a noncustodial parent who regularly pays support and is barred from parenting time by the custodial parent may file an application for an injunction to enforce parenting time under Ind. Code § 31-17-4-4.
- C. *Criminal Penalties*. Interference with custody or visitation rights may be a crime. Ind. Code § 35-42-3-4.
- D. Attorney Fees. In any court action to enforce an order granting or denying parenting time, a court may award reasonable attorney fees and expenses of litigation. A court may consider whether the parent seeking attorney fees substantially prevailed and whether the parent violating the order did so knowingly or intentionally. A court can also award attorney fees and expenses against a parent who pursues a frivolous or vexatious court action.

SECTION II. SPECIFIC PARENTING TIME PROVISIONS

A. INTRODUCTION

The best parenting plan is one created by parents which fulfills the unique needs of the child and the parents. <u>Parents should attempt to create their own parenting plan which is in the best interests of the child.</u> If an agreement is reached, the parenting plan shall be reduced to writing, signed by both parties, and filed for approval by the court in order to be enforceable. When the parties cannot reach an agreement on a parenting plan, the specific provisions which follow are designed to assist parents and the court in the development of a parenting plan. They represent the

minimum recommended time a parent should have to maintain frequent, meaningful, and continuing contact with a child.

For identification purposes, the following provisions set forth parenting time for the non-custodial parent and assume the other parent has sole custody or primary physical custody in a joint legal custody situation. These identifiers are not meant to diminish or raise either person's status as a parent.

1.

B. OVERNIGHT PARENTING TIME.

<u>Unless it can be demonstrated that the non-custodial parent has not had regular care</u> responsibilities for the child, parenting time shall include overnights as provided in Regular Parenting Time, II. E. below. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then overnights should be phased in.

C. PHASE IN.

If the non-custodial parent who did not initially have regular care responsibilities has consistently and regularly exercised the scheduled parenting time under these guidelines for at least nine (9) continuous months, regular overnight parenting time may take place as provided below. in Section II. E. below.

Commentary

- **1. Assumptions.** The provisions identify parenting time for the non-custodial parent. and The provisions assume that one parent has sole custody or primary physical custody of a child, that both parents are fit and proper, that both parents have adequately bonded with the child, and that both parents are willing to parent the child. They further assume that the parents are respectful of each other and will cooperate with each other to promote the best interests of the child. Finally, the provisions assume that each parent is responsible for the nurturing and care of the child. Parenting time is both a right and a trust and parents are expected to assume full responsibility for the child during their individual parenting time. When these assumptions do not apply, the judge should craft an order which fits the best interests of the child.
- **2. Lack of Contact.** Where there is a significant lack of contact between a parent and a child, there may be no bond, or emotional connection, between the parent and the child. It is recommended that scheduled parenting time be "phased in" to permit the parent and child to adjust to their situation. It may be necessary for an expert to evaluate the current relationship (or lack thereof) between the parent and the child and recommend a schedule. It may be necessary for an evaluation of the current relationship (or lack thereof) between the parent and the child in order to recommend a parenting time plan. A guardian ad litem, a mental health professional, a representative from a domestic relations counseling bureau or any other neutral evaluator may be used for this task.

Completion of each stage of the phased in parenting time is not required. It is not the intent of this section to require a non-custodial parent to progress through each stage of the child's life as set out in this phased in parenting time, from infancy through age 5. For example, if the non-custodial parent begins the phased in parenting time when the child is 3 months of age, and later can demonstrate the ability to perform regular care responsibilities, the non-custodial parent's parenting time need not be restricted by the remaining stages. The test should not simply be the child's age, but should include consideration of the non-custodial parent's participation as a caregiver and the best interests of the child. A non-custodial parent who provides regular care responsibilities may be able to skip one or more of the stages and enjoy unrestricted regular overnight parenting time.

- **3. Age Categories.** The chronological age ranges set forth in the specific provisions are estimates of the developmental stages of children since children mature at different times.
- **4. Multiple Children of Different Ages.** When a family has children of different ages, the presumption is that all the children should remain together during the exercise of parenting time. However, the standards set for a young child should not be ignored, and there will be situations where not all of the children participate in parenting time together. On the other hand, when there are younger and older children, it will generally be appropriate to accelerate, to some extent, the time when the younger children move into overnight or weekend parenting time, to keep sibling relationships intact.
- **5. Non-traditional Work Schedules.** For parents with non-traditional work schedules, who may regularly work weekends, weekday parenting time should be substituted for the weekend time designated in these <u>rules parenting time provisions</u>. Similar consideration should also be given to parents with other kinds of non-traditional work hours.

AD. PHASED IN PARENTING TIME - INFANTS AND TODDLERS

1. Introduction

The first few years of a child's life are recognized as being critical to that child's ultimate development. Infants (under eighteen months) and toddlers (eighteen months to three years) have a great need for continuous contact with the primary care giver who provides a sense of security, nurturing and predictability. It is thought best if scheduled parenting time in infancy be minimally disruptive to the infant's schedule.

Commentary

- **1. Both Parents Necessary.** It is critical that a child be afforded ample opportunity to bond with both parents. A young child thrives when both parents take an active role in parenting. There is a positive relationship between the degree of involvement of mothers and fathers and the social, emotional, and cognitive growth of a child. Both parents can care for their child with equal effectiveness and their parenting styles may make significant contributions to the development of the child. Parents, therefore, must be flexible in creating for each other opportunities to share both the routine and special events of their child's early development.
- **2. Frequency Versus Duration.** Infants and young children have a limited but evolving sense of time. These children also have a limited ability to recall persons not directly in front of them. For infants, short frequent visits are much better than longer visits spaced farther apart. From the vantage point of the young child, daily contact with each parent is ideal. If workable, it is recommended that no more than two days go by without contact with the noncustodial parent. A parent who cannot visit often may desire to increase the duration of visits but this practice is not recommended for infants. Frequent and predictable parenting time is best.
- 1. Overnight Parenting Time. Unless it can be demonstrated that the non-custodial parent has not had regular care responsibilities for the child, parenting time shall include overnights. If the non-custodial parent has not previously exercised regular care responsibilities for the child, then parenting time shall not include overnights prior to the child's third birthday, except as provided below.

Commentary

Overnight contact between parents and very young children can provide opportunities for them to grow as a family. At the same time, when very young children experience sudden changes in their night time care routines, especially when these changes include separation from the usual caretaker, they can become frightened and unhappy. Under these circumstances, they may find it difficult to relax and thrive, even when offered excellent care.

When a very young child is accustomed to receiving regular, hands-on care from both parents, the child should continue to receive this care when the parents separate. Regardless of custodial status, a parent who has regularly cared for the child prior to separation should be encouraged allowed to exercise overnight parenting time. When a parent has not provided regular hands-on care for the child prior to separation, overnight parenting time is not recommended may be phased in as provided below, until the parent and the child have developed a predictable and comfortable daytime care taking routine. "Regular care" for the child may also include a parent who is employed outside of the home, provides income for the household and has otherwise bonded with the child.

2. Parenting Time In Early Infancy. (Birth through Age 9 Months)

- (A) Birth through Age 4 Months:
 - (1) Three (3) non-consecutive "days" per week of two (2) hours in length.
 - (2) All scheduled holidays of two (2) hours in length.
 - (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

Commentary

The custodial home is the preferred place for this parenting time to occur. However, in some cases this may not be practical. Parenting time should occur in a stable place and without disruption of an infant's established routine.

- (B) Age 5 Months through Age 9 Months:
 - (1) Three (3) non-consecutive "days" per week of three (3) hours per day. The child is to be returned at least one (1) hour before evening bedtime.
 - (2) All scheduled holidays of three (3) hours in length. The child is to be returned at least one (1) hour before evening bedtime.
 - (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.

3. Parenting Time In Later Infancy (Age 10 Months through Age 18 Months)

- (A) Age 10 Months through Age 12 Months:
 - (1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for eight (8) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
 - (2) All scheduled holidays for eight (8) hours. The child is to be returned at least one (1) hour before evening bedtime.
 - (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.
- (B) Age 13 Months through Age 18 Months:
 - (1) Three (3) non-consecutive "days" per week, with one day on a "non-work" day for ten (10) hours. The other days shall be for three (3) hours each day. The child is to be returned at least one (1) hour before evening bedtime.
 - (2) All scheduled holidays for eight (8) hours. The child is to be returned at least (1) hour before evening bedtime.
 - (3) Overnight if appropriate under Rule 1 above but not to exceed one (1) 24 hour period per week.
- (C) Age 19 Months through 36 Months:

- (1) Alternate weekends on Saturdays for ten (10) hours and on Sundays for ten (10) hours. The child is to be returned at least one hour before bedtime, unless overnight is appropriate under Rule 1.
- (2) One (1) "day" preferably in mid-week for three (3) hours, the child to be returned at least one (1) hour before evening bedtime, unless overnight during the week is appropriate under Rule 1.
- (3) All scheduled holidays for ten (10) hours. The child is to be returned one hour before bedtime.
- (4) If the non-custodial parent who did not initially have substantial care responsibilities has exercised the scheduled parenting time under these guidelines for at least nine (9) continuous months, overnight parenting time may take place.

BE. REGULAR PARENTING TIME - CHILD 3 YEARS OF AGE AND OLDER

1. Regular Parenting Time

- (1) On alternating weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M. (the times may change to fit the parents' schedules).
- (2) One (1) evening per week, preferably in mid-week, for a period of up to four hours but the child shall be returned no later than 9:00 p.m.
- (3) On all scheduled holidays.

Commentary

Where the distance from the non-custodial parent's residence makes it reasonable, the weekday period may be extended to an overnight stay. In such circumstances, the responsibility of feeding the child the next morning, getting the child to school or day care, or returning the child to the residence of the custodial parent, if the child is not in school, shall be on the non-custodial parent.

2. Extended Parenting Time (Child 3 through 4 Years Old)

The noncustodial parent shall have Uup to four (4) non-consecutive weeks during the year beginning at 4:00 P.M. on Sunday until 4:00 P.M. on the following Sunday... Tthe non-custodial parent shall to give at least sixty (60) days advance notice of the use of a particular week.

3. Extended Parenting Time (Child 5 and older)

One-half of the <u>sSummer vacation</u>. The summer vacation begins the day after school lets out for the summer, and ends the day before school resumes for the new school year. The time may be either consecutive or split into two (2) segments. The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection and notify the other parent. All notices shall be given in writing and verbally. A timely selection may not be rejected by the other parent. Notice of an employer's restrictions on the vacation time of either parent shall be delivered to the other parent as soon as that information is available. In scheduling parenting time the employer imposed restrictions on either parent's time shall be considered by the parents in arranging their time with their child.

If a child attends year-round school, the periodic breaks should be divided equally between the parents.

If a child attends summer school, the parent exercising parenting time shall be responsible for the child's transportation to and attendance at school.

During any extended summer period of more than two (2) consecutive weeks with the non-custodial parent, the custodial parent shall have the benefit of the regular parenting time schedule set forth above, which includes alternating weekends and mid-week parenting time, unless impracticable because of distance created by out of town vacations.

Similarly, during the summer period when the children are with the custodial parent for more than two (2) consecutive weeks, the non-custodial parent's regular parenting time continues, which includes alternating weekends and mid-week parenting time, unless impracticable because of distance created by out of town vacations.

The selection of a parent's summer parenting time shall not deprive the other parent of the Holiday Parenting Time Schedule below. See Section II. G.

GF. PARENTING TIME FOR THE ADOLESCENT AND TEENAGER

1. Regular Parenting Time. Regular parenting time by the noncustodial parent on alternating weekends, during holidays, and for an extended time during the summer months as set forth in the Parenting Time Guidelines (Section II. B-E.) shall apply to the adolescent and teenager.

Commentary

- 1. A Teenager Needs Both Parents. Adolescence is a stage of child development in which parents play an extremely important role. The single most important factor in keeping a teenager safe is a strong connection to the family. The responsibility to help a teenager maintain this connection to the family rests with the parents, regardless of their relationship. The parents must help the teenager balance the need for independence with the need to be an active part of the family. To accomplish this, they must spend time with the teenager. Parents must help the adolescent become a responsible adult. A teenager should safely learn life's lessons if the parents provide the rules which prevent dangerous mistakes.
- **2. Anchors of Adolescence.** Regardless of whether the parents live together or apart, an adolescent can be made to feel part of a supportive, helpful family. Things that can help this occur include:

Regular time spent in the company of each parent. Parents need to be available for conversation and recreation. They need to teach a teenager skills that will help the teen in adult life.

Regular time spent in the company of siblings. Regardless of personality and age differences, siblings who spend time together can form a family community that can be a tremendous support in adult life. If the children do not create natural opportunities for them to want to do things together, the parents will need to create reasons for this to occur.

Emphasis on worthwhile values. Parent and teens together should invest time in wholesome activities that teach a teenager important lessons. If a teenager identifies with worthwhile values, the teen is more likely to have a positive self-image.

Time spent with good friends. A parent's expectations can influence a teenager's choice of friends. Meet your teenager's friends and their parents and interact with them as guests in your home. This will increase the likelihood that your teenager's friends will be people who are comfortable in the environment that is good for the teen.

Clear rules that are agreed upon by both parents. As a child matures, it is very important that the teen knows rules of acceptable behavior. The chances of this occurring are much better if both parents agree in these important areas. When parents jointly set the standard of behavior for their teen, the chances of the child accepting those values are greatly increased.

Good decisions/greater freedoms. A teenager who does what is expected should be offered more freedom and a wider range of choices. It is helpful if a teenager is reminded of the good

decisions that have caused the teen to be given more privileges. If a teen is helped to see that privileges are earned and not natural "rights" he or she will be more likely to realize that the key to getting more freedom is to behave well. If rules are not followed, appropriate consequences should result. A teenager who does not make good use of independence should have less of it.

3. Decision Making In Parenting A Teenager. The rearing of a teenager requires parents to make decisions about what their teen should be allowed to do, when, and with whom. At the same time, parents who live apart may have difficulty communicating with each other.

If parents are not able to agree, the teenager, who very much wants freedom from adult authority, should never be used as the "tie breaker." When parents live apart, it is more likely that a child will be required to make decisions, not as a healthy part of development, but simply to resolve disagreements between the parents.

As a general rule, a teenager should be involved in making important decisions if the parents agree the opportunity to make the decision is valuable, and the value of that opportunity outweighs any possible harm of a poor decision. If the parents feel the welfare of the child is dependent on the decision made, and if they allow the child to make a decision simply because they cannot agree, the parents are in danger of failing the child.

Example #1

Mary Jones and John Jones disagree as to whether or not their daughter, Sally, should study a foreign language in middle school. Mary feels that this early exposure to a foreign language will offer Sally an advantage when she continues this study in high school. John would like Sally to have the opportunity to develop her artistic talents through electives in drawing and painting. The Jones agree that Sally's success and happiness will in large part be determined by her motivation. They agree that Sally should decide between a foreign language and art, and that they will support whatever decision she makes.

<u>Comment:</u> Mary and John feel that Sally is mature enough to think about what interests her and makes her happy. They feel that an opportunity to do this in choosing an elective will be an important experience for Mary--more important than the relative merits of foreign language or art study to Sally's academic career. This is a good example of parents agreeing to involve the adolescent in making a decision that resolves their own disagreement.

Example #2

Tom Smith and Sue Smith cannot come to a visitation agreement. Tom believes their 17 year old son, Pete, should have visitation at a time to be determined by Pete. Tom feels that, if Pete is given a visitation schedule, he will feel that he is being forced to see his father. Tom further believes this will weaken his relationship with his son. Sue believes a clear plan regarding the time Tom and Pete spend together should be established. She says if Pete is not given a firm expectation of when he will be with Tom, it will be too easy for other activities in Pete's life to crowd out this priority. Unable to resolve this question, Tom and Sue give Pete the option of deciding if he would like a visitation schedule or if he would like to be free to see his father whenever he pleases.

<u>Comment:</u> Tom and Sue each feel the quality of Pete's relationship with Tom will depend on the way that visitation is structured. Each believes that, if Pete makes the wrong choice, the problems that follow could impact him throughout his adult life. They have placed the responsibility for the decision on Pete, not because the chance to make such a decision will help him, but because they cannot resolve the matter between themselves. This is a poor reason for entrusting an adolescent with such an important decision.

2. Special Considerations. In exercising parenting time with a teenager, the non-custodial parent shall make reasonable efforts to accommodate a teenager's participation in his or her regular academic, extracurricular and social activities.

Making Regular Parenting Time Workable. Parents must develop a parenting plan that evolves or changes as the teen matures. The needs of the child at age thirteen will be very different from the needs of that same child at age seventeen. Parents also must develop a parenting plan that assures regular involvement of both parents. This can be a particular challenge when the teen is involved with school, activities, and friends, and becomes even more difficult when the parents live some distance apart.

When parents differ in their views of which freedoms should be given and which should be withheld, the parents must be sufficiently united to keep the teenager from assuming responsibilities when the child is not ready. At the same time, the parents must respect that they will run their homes differently because they are living apart.

Living apart challenges parents to teach their child that different ways of doing things can work for different parents. They must see that their child needs to work especially hard to adapt to two distinct ways of doing things. Not all differences mean that one parent is right and one parent is wrong. The key is for parents to realize different homes can produce a well-adjusted teen.

Example: The Student Athlete

Jim Doe and Jane Doe have been divorced for 3 years. Their oldest child, Jeremy, is beginning high school. Throughout his middle school years, Jeremy was active in football. Practices were held after school and games took place on weekends. Jeremy had spent alternating weekends and one night each week with his noncustodial parent. The parent who had Jeremy took him to practices and games during the time they were together. On week nights with the noncustodial parent, this usually consisted of dinner and conversation. Weekends with both parents included homework, chores, play, and family outings.

Jeremy's high school coach is serious about football. Jeremy loves the sport. Coach expects Jeremy to work out with teammates throughout the early summer. In August, practice occurs three times a day. Once school begins, Jeremy will practice after school for several hours each day. In addition, he is taking some difficult courses and expects that several hours of study will be needed each night. Jeremy will have games on Friday nights. Because of his busy weekend schedule, he expects that Saturdays will be his only time to be with friends.

Discussion

On the surface, a traditional parenting plan, placing Jeremy with his noncustodial parent on alternating weekends and one night each week, would not seem to work. Jeremy's athletic and academic demands will require him to work hard on weeknight evenings. Jeremy's parents agree he needs time to be with friends and he should be allowed to make social plans on Saturdays. They recognize Sundays will often need to be devoted to homework projects which do not fit into the busy weekday schedule.

A Possible Solution

Jeremy's parents want him to enjoy sports and have friends. Yet, they also want him to have the benefits of being actively raised by two parents. They want him to grow to become an adult who sees that balancing family, work, and play is important. They want to teach him how to do this.

Jeremy's parents have agreed to maintain their previous supervision plan. However, they have also agreed on some changes. Jeremy's noncustodial parent will come to the community of the custodial parent for midweek visitation. Regardless of how busy he is, Jeremy needs to eat. The noncustodial parent plans to take Jeremy to dinner at a restaurant that offers quick but healthy meals. They will spend the rest of the time at a local library where Jeremy can study. The noncustodial parent can offer help as needed or simply enjoy a good book. Jeremy's parents plan to purchase an inexpensive laptop computer to assist him when he works at the library.

Jeremy's parents plan that alternating weekends will continue to be spent with the noncustodial parent. They, like many parents of adolescents, understand Jeremy wants to be with his friends more than he wants to be with them. They recognize that, on weekends, they are offering more supervision and Jeremy's friends are getting more time. Yet, they also see the need to help Jeremy establish active family membership as one of his priorities.

DG. HOLIDAY PARENTING TIME SCHEDULE

1. Conflicts Between Regular and Holiday Weekends.

The Holiday Parenting Time Schedule shall take precedence over regularly scheduled and extended parenting time. Extended parenting time takes precedence over regular parenting time unless otherwise indicated in these Guidelines.

Alternating weekends shall be maintained through-out the year as follows. If a the non-custodial parent misses a regular weekend because it is the custodial other parent's holiday, the regular alternating parenting time schedule will resume following the holiday. It will be lost. If the non-custodial a parent receives two consecutive weekends because of a holiday, the regular alternating parenting time schedule will resume the following weekend with the custodial parent. That parent shall have the third weekend also. Regular alternating weekends shall continue throughout the year.

Commentary

A parent may receive three (3) consecutive weekends due to a holiday. It is anticipated that missed weekends due to holidays will balance out for each parent given the alternating schedule for the holidays provided for in these guidelines.

When the Court orders a change of physical custody, the Court should consider whether the Holiday Schedule change should start at the beginning of the calendar year, at the beginning or the end of the child's school year, or immediately.

2. Holiday Schedule. The following parenting times are applicable in all situations referenced in these Guidelines as "scheduled holidays" with the limitations applied as indicated for children under the age of three (3) years.

A. Special Days.

- [1] Mother's Day. With the child's mother from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [2] Father's Day. With the child's father from Friday at 6:00 P.M. until Sunday at 6:00 P.M.
- [3] Child's Birthday. In even numbered years the non-custodial parent shall have all of the children on each child's birthday from 9:00 A.M. until 9:00 P.M. However, if the birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.
 - In odd numbered years the non-custodial parent shall have all of the children on each child's birthday on the day before the child's birthday from 9:00 A.M. until 9:00 P.M., however, if such day falls on a school day, then from 5:00 P.M. until 8:00 P.M.
- [4] Parent's Birthday. From 9:00 A.M. until 9:00 P.M. with that parent, however, if the parent's birthday falls on a school day, then from 5:00 P.M. until 8:00 P.M.
- [5] When the child's birthday falls within a Special Day, Holiday, or Christmas vacation, the child's birthday shall be celebrated with the parent having the child during that time period.

- When the parent's birthday falls within a Special Day, Holiday or Christmas vacation, the Special Day, Holiday or Christmas vacation takes precedence.
- [6] If the child's school is closed in observance of Martin Luther King Day and/or President's Day the weekend parenting time will extend to Monday at 6:00 p.m.

B. Christmas Vacation.

One half of the period which will begin at 8:00 P.M. on the evening the child is released from school and continues to December 30 at 7:00 P.M. If the parents cannot agree on the division of this period, the custodial parent shall have the first half in even numbered years. In those years when Christmas does not fall in a parent's week, that parent shall have the child from Noon to 9:00 P.M. on Christmas Day. The winter vacation period shall apply to pre-school children and shall be determined by the vacation period of the public grade school in the custodial parent's school district.

The Christmas vacation shall be defined as beginning on the last day of school and ending the last day before school begins again. Absent agreement of the parties, the first half of the period will begin two hours after the child is released from school. The second half of the period will end at 6:00 p.m. on the day before school begins again.

Each party will receive one half (1/2) of the total days of the Christmas vacation, on an alternating basis as follows:

- 1.In even numbered years, the custodial parent shall have the first one half (1/2) of the Christmas vacation and non-custodial parent shall have the second one half (1/2) of the Christmas vacation.
- 2.In odd numbered years, the non-custodial parent shall have the first one half (1/2) of the Christmas vacation and custodial parent shall have the second one half (1/2) of the Christmas vacation.
- 3. In those years when Christmas does not fall in a parent's week, that parent shall have the child(ren) from Noon to 9:00 P.M. on Christmas Day.
- 4. No exchanges under this portion of the rule shall occur between 9:00 p.m. and 8:00 a.m., absent agreement of the parties.

New Year's Eve and New Year's day shall not be considered separate holidays under the Parenting Time Guidelines.

C. Holidays.

The following holidays shall be exercised by the noncustodial parent in even numbered years and the custodial parent in odd numbered years: In years ending with an even number, the non-custodial parent shall exercise the following parenting time:

- [1] New Year's Eve and New Year's Day. (The date of the new year will determine odd or even year). From December 30th at 7:00 P.M. to 7:00 P.M. of the evening before school resumes.
- [1] MLK Day, if observed by child's school, from Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [2] Presidents' Day, if observed by child's school, from Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [3][2] Memorial Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.
- [4][3] Labor Day. From Friday at 6:00 P.M. until Monday at 7:00 P.M.

- [5][4] Thanksgiving. From 6:00 P.M. on Wednesday until 7:00 P.M. on Sunday.
- The following holidays shall be exercised by the noncustodial parent in odd years and the custodial parent in even years: In years ending with an odd number, the non-custodial parent shall exercise the following parenting time:
- [1] Spring Break. From two hours after the child is released from school on the child's last day of school before Spring Break, and ending 7:00 p.m. on the last day before school begins again. From Friday at 6:00 P.M. through Sunday of the following weekend at 7:00 P.M.
- [2] Easter. From Friday at 6:00 P.M. until Sunday at 7:00 P.M.
- [3] Fourth of July. From 6:00 P.M. on July 3rd until 10:00 A.M. on July 5th.
- [4] Fall Break. From two hours after the child is released from school on the child's last day of school before Fall Break and ending 7:00 p.m. of the last day before school begins again.
- [5][4]Halloween. On Halloween evening from 6:00 P.M. until 9:00 P.M. or at such time as coincides with the scheduled time for trick or treating in the community where the non-custodial parent resides.
- **3. Religious Holidays.** Religious based holidays shall be considered by the parties and added to the foregoing holiday schedule when appropriate. The addition of such holidays shall not affect the Christmas vacation parenting time, however, they may affect the Christmas day and Easter parenting time

Recognizing there are individuals of varying faiths who celebrate holidays other than those set out in the guidelines, the parties should try to work out a holiday visitation schedule that fairly divides the holidays which they celebrate over a two-year period in as equal a manner as possible.

SECTION III. PARENTING TIME WHEN DISTANCE IS A MAJOR FACTOR

Where there is a significant geographical distance between the parents, scheduling parenting time is fact sensitive and requires consideration of many factors which include: employment schedules, the costs and time of travel, the financial situation of each parent, the frequency of the parenting time and others.

- **1. General Rules Applicable.** The general rules regarding parenting time as set forth in Section 1 of these guidelines shall apply.
- **2. Parenting Time Schedule.** The parents shall make every effort to establish a reasonable parenting time schedule.

Commentary

When distance is a major factor, the following parenting time schedule may be helpful:

(A) Child Under 3 Years Of Age. For a child under 3 years of age, the noncustodial parent shall have the option to exercise parenting time, in the community of the custodial parent, up to two five hour periods each week. The five hour period may occur on Saturday and Sunday on alternate weekends only.

- **(B) Child 3 and 4 Years of Age.** For a child 3 and 4 years of age, up to six (6) one week segments annually, each separated by at least (6) weeks. Including the pickup and return of the child, no segment shall exceed eight (8) days.
- (C) Child 5 Years of Age and Older. For a child 5 years of age and older, seven (7) weeks of the school summer vacation period and seven (7) days of the school winter vacation plus the entire spring break, including both weekends if applicable. Such parenting time, however, shall be arranged so that the custodial parent shall have religious holidays, if celebrated, in alternate years.
- **3. Priority of Summer Visitation.** Summer parenting time with the non-custodial parent shall take precedence over summer activities (such as Little League) when parenting time cannot be reasonably scheduled around such events. Under such circumstances, the non-custodial parent shall attempt to enroll the child in a similar activity in his or her community.
- **4. Extended Parenting Time Notice.** The noncustodial parent shall give notice to the custodial parent of the selection by April 1 of each year. If such notice is not given, the custodial parent shall make the selection.
- **5. Special Notice of Availability.** When the non-custodial parent is in the area where the child resides, or when the child is in the area where the non-custodial parent resides, liberal parenting time shall be allowed. The parents shall provide notice to each other, as far in advance as possible, of such parenting opportunities.

SECTION IV. PARENTING COORDINATION

A. GENERAL PROVISIONS

- 1. A Parenting Coordinator is an impartial third party qualified under these rules, who is appointed by the court to assist parties in resolving issues and recommending solutions to disputed issues relating to parenting in any action for dissolution of marriage, legal separation, paternity, or guardianship where a minor child is involved.
- 2. Parenting coordination is a child-focused process in which a mental health or legal professional with mediation training and experience assists high conflict parties to implement a parenting plan by facilitating the resolution of disputes in a timely manner and educating parties about a child's needs.
- 3. "High conflict parents" mean parties who demonstrate a pattern of ongoing litigation, chronic anger and distrust, inability to communicate about and cooperate in the care of the child, or other behaviors warranting the appointment of a Parenting Coordinator.
- 4. Simultaneously with, or after entry of a Parenting time order, the court may with consent of the parties, or on its own motion, appoint a Parenting Coordinator when it is in the child's best interest to do so.
- 5. When the court on its own motion appoints a parenting coordinator without the consent of both parties, the order appointing a parenting coordinator must include a written explanation why the appointment is appropriate in the case.
- 6. Nothing in this rule limits, supersedes, or divests the court of its exclusive jurisdiction to determine issues of parenting time, custody and child support.
- 7. These rules apply to all parenting coordinator appointments made after the effective date of the adoption of these rules and do not modify an existing parenting coordination order. These rules do not limit a party's right to file for modification under existing Indiana law.

Commentary

- 1. The appointment of a Parenting Coordinator should be considered after other services, such as parenting classes, mediation and family counseling have failed. The appointment should be made when the parties have demonstrated a chronic inability to resolve child related issues and when the level of conflict and ongoing litigation places the child's well being at risk.
- 2. It is not the intent of this rule to limit the definition of "parties" to a biological or adoptive parent. It can include a grandparent, relative or third party awarded full or temporary custody of a minor child or children.
- 3. When the court appoints a Parenting Coordinator over the objection of any party it should do so after careful consideration of the many factors. A court ordered appointment without consent of the parties is appropriate when the use of a parenting coordinator promotes the best interest of minor child and the parties in high conflict cases. The special skills of a qualified Parenting Coordinator can reduce the duration and severity of parental conflict, thereby protecting the child from the harmful effects of such conflict. The court shall consider whether the parties have an ability to pay for the cost of the Parenting Coordination process. The court can consider whether there are other funds available to pay for a Parenting Coordinator where the parents are indigent or of limited income. As with any resource, the cost of the Parenting Coordinator should be considered in the context of the benefit that this service might provide to the family as a whole, but most important to the child. The cost of the appointment of Parenting Coordinator could be less expensive and less emotionally damaging than protracted litigation in court.

B. QUALIFICATIONS

- 1. The Parenting Coordinator shall at all times be a registered Indiana domestic relations mediator.
- 2. To initially register as a Parenting Coordinator, a person shall meet all the requirements of a registered Indiana domestic relations mediator and take twenty hours of Indiana Supreme Court Commission for Continuing Legal Education approved parenting coordination training which includes five hours of domestic violence training. The Commission should consider appropriate curriculum which may include training in the parenting coordination process, family dynamics in separation and divorce, parenting coordination techniques, domestic violence and child maltreatment or other related topics as determined by the Commission.
- 3. The Parenting Coordinator should be a licensed mental health provider with a minimum of a master's degree in a mental health or related field, or an attorney licensed to practice law in Indiana with substantial family law practice experience.
- 4. The Parenting Coordinator should have at least five years experience in his or her profession with high conflict or litigating parents.
- 5. A Parenting Coordinator should maintain professional competence in the parenting coordination process.
- 6. An individual who does not meet the requirements of Rules 2.1 and 2.2 of the Indiana Rules For Parenting Coordination, but who served as a Parenting Coordinator in an Indiana Circuit, Superior or Probate Court prior to the effective date of these rules, may obtain a waiver from the court in which the person so served. However, a person receiving such a waiver shall fully comply with all of the qualification requirements of this rule within two (2) years from the date of the adoption of this rule. A waiver must be submitted by the court to the Indiana Supreme Court Commission for Continuing Legal Education prior to the effective date of this rule.

Commentary

- 1. When the degree of conflict between the parties is so extreme that the appointment of a Parenting Coordinator is appropriate, the success or benefit to the family is directly related to the training and experience of the Parenting Coordinator. The cause of the conflict between the parties will vary with each individual case. The causation could include, but is not limited to, cases where domestic violence is persistent, or when one party is chemically dependent or mentally ill. The purpose of the rule is to create uniformity throughout the state in the appointment of qualified Parenting Coordinators. Requiring compliance with educational standards and continuing education is necessary to maintain the degree of expertise required to identify the family's needs.
- 2. A Parenting Coordinator should also be aware of local county rules or individual court practices which specify other parenting coordination procedures.

C. TERMS OF SERVICE

- 1. A Parenting Coordinator shall serve by agreement of the parties and or formal order of the court, which shall clearly and specifically define the Parenting Coordinator's scope of authority and responsibilities.
- 2. A court order is necessary to provide the Parenting Coordinator authority under these rules to obtain information, and serve and make recommendations as specified in the order.
- 3. In addition to the court order for Parenting Coordination, a written agreement between the parties and the Parenting Coordinator shall be used to detail specific issues not contained in the court order, such as fee payments, billing practices and retainers. The court has the discretion to apportion the fee between the parties absent an agreement.
- 4. The parties may agree on the length of appointment, but an initial term of appointment shall not exceed two years. For good cause shown, the court may extend the appointment of the Parenting Coordinator.
- 5. The court may terminate the service of the Parenting Coordinator at any time upon finding that there is no longer a need for the services or for other good cause. Good cause may include a finding that domestic violence issues or other circumstances exist that appear to compromise the safety of any person or the integrity of the process. The appointment may be terminated if further efforts by the Parenting Coordinator would be contrary to the best interests of the child; the child has reached the age of majority; or the child no longer lives with a party.
- 6. The Parenting Coordinator may provide notice to the parties and the court of his or her intent to resign at any time. The court may approve the resignation and discharge the Parenting Coordinator without a hearing unless a party files a written objection within 10 days of the notice and requests a hearing.
- 7. No party may terminate the services of the Parenting Coordinator without an order of court. Absent egregious abuse of discretion or a substantial and unexpected change in circumstances, no party may request a judicial review of the appointment within the first six months of the appointment. Nevertheless, the court may terminate the appointment of a Parenting Coordinator at any time.
- 8. After the initial six-month period, a party may petition the court for termination of the appointment. Upon a finding that the Parenting Coordinator has exceeded his or her mandate; has acted in a manner inconsistent with this Rule; has demonstrated bias; or for other good cause the court may terminate the appointment.
- 9. After the initial six-month period, the parties may jointly request the termination of the parenting coordination process or motion for the modification of the terms of the appointment.

 Modification or termination of the terms of the appointment may be entered by the court for good cause shown as long as the modification or termination is in the best interest of the child.

- 1. Prohibiting a party from terminating the appointment within the first six months may appear to be contrary to the nature of this process. This time period is necessary in order to give the Parenting Coordinator and the parent's sufficient opportunity to become acquainted and to give the process a chance. The appointment is intended as a non-adversarial child-focused dispute resolution process designed to assist high conflict parents in settling disputes regarding a child in a timely manner, to monitor and facilitate compliance with a parenting plan or court order and to reduce the amount of damaging conflict to which the child is exposed. The benefit to a family may not always be instantaneous and could take some time to evolve. Allowing a party to terminate the services of the Parenting Coordinator after the first attempt goes contrary to that party's position would render the entire process futile. A six-month commitment is considered the minimum amount of time needed to determine if the appointment could be beneficial to a family.
- 2. The costs related to the appointment of the Parenting Coordinator shall be established through a private agreement between the parties and the Parenting Coordinator. The Parenting Coordinator may accept or establish a sliding fee scale based on the parties' respective incomes.

D. ROLE AND AUTHORITY OF PARENTING COORDINATOR

- 1. A Parenting Coordinator shall assist the parties in reducing parent conflict and in promoting the best interests of the child consistent with the roles and functions of a Parenting Coordinator.
- 2. A Parenting Coordinator serves an assessment function. The Parenting Coordinator should review custody evaluations, other relevant records, court orders, information from interviews with the parties and child and other collateral sources, domestic violence protection orders, and any other applicable cases involving criminal assault, domestic violence or child abuse, educational records, and analyze the impasses and issues as brought forth by the parties.
- 3. A Parenting Coordinator serves an educational function. The Parenting Coordinator shall educate the parties about child development, divorce research and the impact their behavior has on the child. The Parenting Coordinator shall introduce to the parties alternative parenting and communication skills to be used in implementing parenting plans or parenting time schedules.
- 4. A Parenting Coordinator serves a coordination/case management function. The Parenting Coordinator should work with the professionals and systems involved with the family (e.g. mental health, health care, social services, education, legal) as well as with extended family, stepparents, and others involved with the family.
- 5. A Parenting Coordinator serves a conflict management function. The Parenting Coordinator's primary role is to assist the parties to resolve disagreements regarding the child and to minimize parent conflict. The Parenting Coordinator may utilize dispute resolution skills from principles and practices of negotiation, mediation, and arbitration. To assist the parties in reducing conflict, the Parenting Coordinator may monitor the faxed, emailed, or written exchanges of communications and suggest more productive forms of communication that limit conflict between the parties. In order to protect the parties and a child in domestic violence cases involving power, control and coercion, a Parenting Coordinator shall tailor the techniques used so as to avoid offering the opportunity for further coercion.
- 6. A Parenting Coordinator serves a decision-helping function. When the parties are not able to decide or resolve disputes on their own, the Parenting Coordinator shall be empowered to make reports or recommendations to the parties and the court for further consideration as set forth in Rule 7 below.
 - 7. Parenting Coordinator shall not offer legal advice.

- 8. A Parenting Coordinator shall not serve in multiple roles in a case that creates a professional conflict.
 - <u>a.</u> A child's attorney or child advocate shall not become a Parenting Coordinator in the same case.
 - b. A mediator or custody evaluator shall not become a Parenting Coordinator in the same case, even with the consent of the parties.
 - c. A Parenting Coordinator shall not become a custody evaluator either during or after the term of a Parenting Coordinator's involvement with the family.
 - d. A Parenting Coordinator shall not be appointed after serving as a therapist, consultant, or coach, or in another mental health role to any family member.
 - e. A Parenting Coordinator shall not become a coach, a therapist, or a consultant, or serve in any other mental health role to any family member, either during or after the term of the Parenting Coordinator's involvement.
 - f. A Parenting Coordinator shall not become one party's lawyer, either during or after the term of the Parenting Coordinator's involvement, nor shall one party's lawyer become the Parenting Coordinator in that client's case.

- 1. The role of the Parenting Coordinator does not include the preparation of an evaluation for litigation purposes. In order for the process to be successful the Parenting Coordinator may review and consider other previously prepared relevant assessments or evaluations. These assessments and evaluations are tools the Parenting Coordinator can use to gain insight into how the family functions or alternatively what may be contributing to the conflict.
- 2. One of the ultimate goals of the Parenting Coordinator is to provide the parties with the ability to, on their own, resolve child related issues without conflict and protracted (constant) litigation. The parties should be educated on alternative and more productive methods of parenting and conflict resolution.
- 3. The court does not relinquish its decision-making powers with the appointment of a Parenting Coordinator. The Parenting Coordinator may not unilaterally modify an existing order or parenting plan. Any modification or major change recommended by the Parenting Coordinator and agreed to by the parties should be submitted to the Court as set forth in Rule 7 below.
- 4. Recommendations made by the Parenting Coordinator and not approved by any of the parties may be submitted to the court for consideration. See Rule 7 below. The Parenting Coordinator may file and submit the recommendation to the court with a written report that explains how the change will benefit the family as a whole. The Parenting Coordinator should avoid advocating for or giving the appearance of representing one party or the child alone.
- 5. A professional conflict arises when an individual has served one party in a confidential capacity, as set forth in subparagraph 4.8 above and then is asked to serve as a parenting coordinator. An attorney, a therapist, a mental health professional, advocates for one side over the other. The Parenting Coordinator does not advocate for one party over another, but works for what is best for the whole family. The Parenting Coordinator must be impartial for the process to be successful. After having served as an advocate for one side, it would be nearly impossible for the other party to now have confidence that this person can be unbiased, equitable or fair as a parenting coordinator.

As an advocate for one side there is a duty not to disclose confidential information. The same applies to mediation, which by definition is a confidential process. The Parenting Coordinator does not have the same restrictions of confidentiality. The Parenting Coordinator must be at liberty to discuss and disclose the concerns and fears of all the parties in order to be of any benefit to the family. Confidentiality is discussed further in Rule 8 below

There are similarities between a mediator and a parenting coordinator. The mediator's role is to assist the parties in identifying issues, reducing misunderstanding and finding points of agreements. The issues are finite. The Parenting Coordinator has a similar role, only the issues are infinite. The problems presented to the Parenting Coordinator range from the color of a child's shoes to the course of study at the child's school. Each day the scope of the Parenting Coordinator's involvement with the family differs. Each day the issues can change. It was not intended that mediation would cover such a broad spectrum of day-to-day issues. The scope of the Parenting Coordinators duties far exceeds that of a mediator.

E. COOPERATION AND RELEASE OF INFORMATION

- 1. A Parenting Coordinator shall communicate with all parties, counsel, a child, and the court in a manner which preserves the integrity of the parenting coordination process and considers the safety of the parties and child. The Parenting Coordinator shall be allowed to communicate with extended family members, friends or other persons involved with family members and have access to written information necessary to fulfill the responsibilities of the Parenting Coordinator.
- 2. Because parenting coordination is a non-adversarial process designed to reduce acrimony and settle disputes efficiently, a Parenting Coordinator may engage in *ex parte* (individual) communications with each of the parties and/or their attorneys. The Parenting Coordinator may initiate or receive *ex parte* oral or written communications with the parties and their attorneys, legal representatives of a child, and other parties relevant to understanding the issues. The Parenting Coordinator shall do so in an objective, balanced manner which takes into consideration the possibility or perception of bias. The Parenting Coordinator should communicate agreements and recommendations to all parties and counsel at the same time.
 - 3. The Parenting Coordinator shall not communicate ex parte with the court.
- 4. The Parenting Coordinator typically should have access to any persons involved with family members including, but not limited to, the custody evaluator, lawyers, school officials, and physical and mental health care providers. The Parenting Coordinator shall have the authority to meet with a child, any stepparent or person acting in that role, or anyone else the Parenting Coordinator determines to have a significant role in contributing to or resolving the conflict. The Parenting Coordinator should notify any such collateral sources that information obtained from them is not confidential and that it may be used in making decisions or writing reports or recommendations to or testifying in court.
- 5. The Parenting Coordinator should have access to all orders and pleadings filed in the case, as well as the custody evaluation report, school and medical records of a child, and reports of psychological testings that were generated prior to, during or after the pendency of the case. The court order shall require that the parties execute releases and consents required by the record holder to permit access to such data and other relevant information during the Parenting Coordinator's term of appointment.
- 6. The Parenting Coordinator should have initial individual and/or joint interviews with the parties, and may interview a child. Parenting Coordinators may interview any individuals who provide services to the child as needed to assess the child's needs and wishes. The communication between the parties may be in joint face-to-face meetings, telephone conference calls, individual face-to-face or telephone meetings, e-mail, or fax. The Parenting Coordinator should determine whether separate or joint sessions are most appropriate at any particular time. In cases of domestic violence

involving power, control and coercion, the Parenting Coordinator shall conduct interviews and sessions with the parties individually.

- 7. The Parenting Coordinator shall be alert to the reasonable suspicion of any acts of child abuse or neglect, or of domestic violence directed at the other party, a current partner, or a child. The Parenting Coordinator should adhere to any protection orders, and take whatever measures may be necessary to ensure the safety of the parties, a child and the Parenting Coordinator.
- 8. The Parenting Coordinator should be alert to the reasonable suspicion of any substance abuse by either party or child, as well as any psychological or psychiatric impairment of any parent or child.
- 9. The Parenting Coordinator should keep notes regarding all communications with the parties, a child and other persons with whom the Parenting Coordinator speaks about the case.
- 10. A Parenting Coordinator shall document in writing all resolutions agreed upon by the parties in the Parenting Coordination process.
- 11. The Parenting Coordinator shall maintain records in a manner that is professional, comprehensive and inclusive of information and documents that relate to the parenting coordination process and that support decisions by the parties and recommendations by the Parenting Coordinator.

Commentary

1. There is a limited right or expectation of confidentiality between the parties, a child and the Parenting Coordinator. Further, the Parenting Coordinator is given the right to conduct investigations and to ask questions of extended family members, friends of the family, teachers or other persons who may have information which is helpful to the Parenting Coordinator.

This does not mean the Parenting Coordinator is at liberty to disclose private information regarding a family to third parties. The Parenting Coordinator has a professional obligation or duty to protect the privacy of a family. The limited right of confidentiality between the parties, a child and the Parenting Coordinator is discussed further in Rule 8.

- 2. The parenting coordination process is not a confidential process. Nor is the parenting coordination process purely and alterative dispute process, as it involves much more than traditional alternative dispute resolution. Ind. Evidence Rule 408, a rule of relevancy, does not provide complete exclusion to discovery or admissibility of conduct that occurred during the parenting coordination process.
- 3. The term "ex parte" comes from Latin, meaning "for one party," and refers to motions, hearings or orders granted on the request of and for the benefit of one party only. A basic rule of court procedure and due process is that both parties must be present at any argument before a judge, and that one party cannot have communications with the judge when the other party is not also involved in that communication. Therefore, Rule 5.3 strictly provides that the Parenting Coordinator shall not communicate ex parte with the court. When the Parenting Coordinator does communicate with the court by submitting written reports, the Parenting Coordinator must simultaneously serve copies of those reports on all of the parties. Similarly, the Parenting Coordinator shall not communicate orally with the court outside of the presence of the parties. If circumstances so dictate, the parties may choose to seek an Order for Protection under Indiana Code 34-26-5, or relief permitted at Ind. Trial Rule 65 (B).

F. IMPARTIALITY / CONFLICT OF INTEREST

- 1. A Parenting Coordinator shall maintain impartiality in the process of parenting coordination, although a Parenting Coordinator is not neutral regarding the outcome of particular decisions. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.
- 2. A Parenting Coordinator shall withdraw if the Parenting Coordinator determines he or she cannot act in an impartial or objective manner.
- 3. A Parenting Coordinator shall neither give nor accept a gift, favor, loan or other item of value from any party having an interest in the parenting coordination process.
- 4. A Parenting Coordinator shall not coerce or improperly influence any party to make a decision.
- 5. A Parenting Coordinator shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting coordination process.
- 6. A Parenting Coordinator shall not accept any engagement, provide any service or perform any act outside the role of Parenting Coordinator that would compromise the Parenting Coordinator's integrity or impartiality in the parenting coordination process. A Parenting Coordinator shall not serve in a matter that presents a conflict of interest.
- 7. A conflict of interest arises when any relationship between the Parenting Coordinator and the participants or the subject matter of the dispute compromises or appears to compromise a Parenting Coordinator's impartiality.
- 8. A Parenting Coordinator shall disclose potential conflicts of interest as soon as practical after a Parenting Coordinator becomes aware of the interest or relationship giving rise to the potential conflict.
- 9. After appropriate disclosure, the Parenting Coordinator may serve with the written agreement of all parties. However, if a conflict of interest clearly impairs a Parenting Coordinator's impartiality, the Parenting Coordinator shall withdraw regardless of the express agreement of the parties.
- 10. During the parenting coordination process, a Parenting Coordinator shall not create a conflict of interest by providing any services to interested parties that are not directly related to the parenting coordination process.
- 11. A Parenting Coordinator may suggest referrals to other resources to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration shall be given or received by a Parenting Coordinator for parenting coordination or other referrals.

Commentary

The Parenting Coordinator can be impartial but does not have to remain neutral. Impartiality requires that all be treated alike, without bias and in an equitable and fair manner. Neutrality is defined as indifference, unbiased, and not taking an active part with either of the contending sides. The Parenting Coordinator shall remain unbiased, and treat everyone in a fair manner, but cannot at all times remain neutral. The parenting coordination process was created to assist the family in making child related decisions. There will be times when the Parenting Coordinator takes the side of one party over the other. This may be necessary to allow the family to function and progress. A conflict arises when the Parenting Coordinator's assistance to the family becomes so one-sided that impartiality cannot be maintained.

G. REPORTS, RECOMMENDATIONS, AND COURT ACTION

- 1. A written agreement, which seeks to modify a court order, signed by the parties and the parenting coordinator shall be submitted to the court for consideration within twenty (20) days of the agreement being signed. Copies of the document submitted shall be provided to the parties and their counsel. There shall be no *ex parte* communication with the court.
- 2. A Parenting Coordinator's recommendations, which are not agreed to by the parties, may be submitted by the Parenting Coordinator or a party as a written report to the court for consideration. Copies of the document submitted shall be provided to the parties, their counsel, and the parenting coordinator. The written report shall include an explanation as to how the recommended change is expected to benefit the family as a whole.
- 3. Any party may file with the court and serve on the Parenting Coordinator and all other parties an objection to the written report within ten (10) days after the report is filed with the court, or within another time as the court may direct.
- 4. Reponses to the objections shall be filed with the court and served on the Parenting Coordinator and all other parties within ten (10) days after the objection is served.
- 5. The court, upon receipt of a report and recommendation may take any of the following three actions.
 - a. If the court finds that time is of the essence, the court may approve the recommendation and immediately adopt it as an interim order of the court. However, if a party files an objection to the recommendation, the court shall set an expedited hearing to consider the recommendation and arguments of the parties in favor of and opposing the recommendation.
 - b. The court may reject the recommendation in whole or in part. However, if a party files an objection to the recommendation or objects to the court's rejection of all or part of the recommendation, the court shall set a hearing to consider the recommendation and arguments of the parties in favor of and opposing the recommendation.
 - c. The court may take no immediate action upon the recommendation. Upon the court's own motion or upon the request of any party, the court may set a hearing regarding the recommendation on the court's calendar
- 6 The Parenting Coordinator shall submit a written report to the parties and their counsel at the completion of the Parenting Coordinator's services, and may also submit interim reports as appropriate.

Commentary

- 1. When the Parenting Coordinator communicates with the court by submitting written reports, the Parenting Coordinator must simultaneously serve copies of those reports on all of the parties. As cautioned in Rule 5.3, the Parenting Coordinator shall not communicate orally or otherwise with the court outside of the presence and knowledge of all of the parties.
- 2. There may be situations and circumstances which indicate the court should take some immediate action upon a recommendation, without first considering objections to the recommendation or conducting a hearing on the recommendation. These situations could involve potential or threatened harm to the children, or significant disruption of a reasonable family activity involving the children. Such family activities may include, but are not limited to family travel plans and attendance at weddings, funerals or other such family events. When issuing an interim order upon such a recommendation, the court should balance the potential benefits to the children and family, with the possible adverse impacts that could also result in adopting the recommendation. The best interests of the children should always be a guiding factor in such decisions of the court.

In determining how promptly any hearing should be conducted, the court should consider the reasons put forth in opposition to and in support of the recommendation or order, the harm to a party or the children that might result from delay, and the congestion of the court calendar.

3. At the request and with the permission of the parties, the Parenting Coordinator may prepare or assist in the preparation of agreement documents. In other instances, it may be more appropriate for counsel representing the parties to prepare such documents. Regardless of who prepares the documents, it is the duty of the Parenting Coordinator to make sure that the required documents are signed by the parties and are filed with the court.

H. CONFIDENTIALITY

- 1. A Parenting Coordinator shall inform the parties of the limitations on confidentiality in the parenting coordination process. Information shall not be shared outside of the parenting coordination process except for legitimate and allowed professional purposes. A Parenting Coordinator shall maintain confidentiality regarding the sharing of information outside of the scope of the parenting coordination process, which is obtained during the parenting coordination process, except as provided by these rules, a court order or by written agreement of the parties. Otherwise confidential information of one party released to the Parenting Coordinator shall not be disclosed to any other person.
- 2. Parenting coordination is not a confidential process, either for communications between the parties and a child and the Parenting Coordinator, or for communications between the Parenting Coordinator and other relevant parties to the parenting coordination process, or for communications with the court.
- 3. A Parenting Coordinator shall inform the parties of the following additional limitations of confidentiality:
 - <u>a.</u> The Parenting Coordinator shall report suspected child abuse or neglect to child protective services; and
 - b. The Parenting Coordinator shall report to law enforcement or other authorities if the Parenting Coordinator has reason to believe that any family member appears to be at serious risk to harm himself or herself, another family member or a third party.
- 4. A Parenting Coordinator may participate in peer consultation or mentoring to receive feedback and support on cases.

Commentary

1. The role of the Parenting Coordinator is not as a therapist or counselor to any family member. A Parenting Coordinator is not a custodial evaluator. The Parenting Coordinator is not to make a diagnosis of psychological conditions. The Parenting Coordinator is not a mediator or legal representative. The Parenting Coordinator is not to provide any type of health care or consultation. The distinction is that these are examples of services which are provided to an individual who has an expectation of or a right to confidentiality.

The Parenting Coordinator provides a service to a family as a whole, not an individual. The purpose of the appointment is to work with a high conflict family to help resolve communication and co-parenting disputes without litigation and to educate on methods of dealing with parenting issues in the future. Requiring a Parenting Coordinator to maintain the confidences of a party or the child would unduly hinder the communication process. One of a Parenting Coordinator's most valuable tools is the ability to discuss, openly and rationally with the family, each party's or a child's concerns, suspicions and fears. To limit a

<u>Parenting Coordinator with confidentiality restrictions would frustrate the process.</u>
<u>Guideline IV., H. is consistent with the Association of Family and Conciliation Courts (AFCC) guidelines pertaining to confidentiality for Parenting Coordinators.</u>

2. During a Parenting Coordinator's investigative process non-family members may be interviewed or asked to share their perspectives. Those interviewed should have no expectation of confidentiality when speaking with a Parenting Coordinator. In such situations, a Parenting Coordinator remains subject to a professional duty to maintain the confidences of the family.

I. COMMISSION REGISTRY, ACCOUNTABLITY, AND DISCIPLINE

1. Any person who wishes to serve as a registered Parenting Coordinator pursuant to these rules must register with the Indiana Supreme Court Commission for Continuing Legal Education (hereinafter "Commission") on forms supplied by the Commission. All professional licenses must be disclosed and identified in the form which the Commission requires.

The registration form shall be accompanied by a fee of \$50.00. An annual fee of \$50.00 shall be due by December 31 each year. Registered Parenting Coordinators will be billed at the time their annual statements are sent. The Commission shall maintain a list of registered Parenting Coordinators including the counties or court districts in which the person desires to serve.

The Commission may remove a registered Parenting Coordinator from its registry for failure to meet or to maintain the qualification requirements of these Rules For Parenting Coordination or for non-payment of fees. A registered Parenting Coordinator must maintain a current business and residential address and telephone number with the Commission. Failure to maintain current information required by these rules may result in removal from the registry.

On or before September 1 of each year, or as subsequently amended, each registered Parenting Coordinator will be sent an annual statement showing the Parenting Coordinator educational activities that have been approved for Parenting Coordinator credit by the Commission. See Indiana Rules for Alternative Dispute Resolution, Rule 2.3 (2010).

2. A person who registers with the Commission pursuant to Rule 10.1 consents to the jurisdiction of the Indiana Supreme Court Disciplinary Commission in the enforcement of these standards. The Disciplinary Commission, any court or the Continuing Legal Education Commission may recommend to the Indiana Supreme Court that a registered Parenting Coordinator be removed from its registry as a sanction for violation of these rules, or for other good cause shown. See Indiana Rules for Alternative Dispute Resolution, Rule 7.1 (2010).

Commentary

<u>The Indiana Supreme Court Commission on Continuing Legal Education may seek assistance in administration of this rule from the Judicial Conference of Indiana and other appropriate resources.</u>

SECTION V. PARALLEL PARENTING

Scope. Parallel parenting is a deviation from the parenting time guidelines, Sections I, II, and III. It is a way for high conflict parents to raise their child with little contact between each other.

"High conflict parents" mean parties who demonstrate a pattern of ongoing litigation, chronic anger and distrust, inability to communicate about and cooperate in the care of the child, or other behaviors placing the child's well-being at risk. In such cases the court should deviate from the parenting time guidelines to reduce the adverse effects on the children. The contact between high conflict parents should be minimized or eliminated, at least until the parental conflict is under control.

In parallel parenting, each parent makes day-to-day decisions about the child while the child is with the parent. With parallel parenting, communication between the parents is limited, except in emergencies, and the communication is usually in writing. Parent coordinators or family therapists are recommended to help parents handle parallel parenting arrangements. Parallel parenting may also be appropriate to phase out supervised parenting time. In most instances, parallel parenting should not be a permanent arrangement.

Commentary

High conflict parents constantly argue with each other in the presence of the children. They often blame the other parent for their problems. Some parents make negative comments to the children about the other parent. Children of high conflict parents may develop emotional and behavioral problems. For example, they may become fearful, develop low self-esteem, think they are the cause of their parents' fighting, or find themselves having to choose between their parents. Parallel parenting may be used to bridge between supervised parenting time and guideline parenting time. Of course, the best interests and safety of the children are paramount in all situations.

<u>The Indiana model parallel parenting court order at Appendix B was adapted from Arizona, Idaho and other states. Other states use parallel parenting. Many courts in Indiana are already using this concept.</u>

- 1. Limitations of Parallel Parenting. Joint legal custody of children is normally inappropriate in parallel parenting situations. Rather, sole legal custody is the norm in parallel parenting cases. Additionally, mid week parenting time is not usually proper in parallel parenting cases, due to the higher level of contact and cooperation that is required to implement mid week parenting time. Similarly, in parallel parenting cases, "Make Up" time and the "Opportunity for Additional Parenting Time" are generally inappropriate.
- **2. Education.** In some communities, parents can attend high conflict resolution classes or cooperative parenting classes. In these classes, parents learn that any continuing conflict between them will likely have a long-term negative effect on their children. They also learn skills to be better co-parents.
- **3. Parallel Parenting Plan Court Order**. In ordering the parties to parent according to a parallel parenting plan, the court must enter a written explanation indicating why the deviation from the regular Indiana Parenting Time Guidelines is necessary or appropriate. The court order shall detail the specific provisions of the plan.

Commentary

The specific court order for parallel parenting in any individual case should include a consideration of the topics in Appendix B, which is a recommended model parallel parenting plan court order. This order should address "hot topic" issues for each family, and should also include any other provisions the court deems appropriate to the family. Several of the provisions in the model order would be applicable to nearly all cases where parallel parenting is appropriate. Other provisions would be applicable only in certain circumstances. Some of these provisions require the court to make and enter a choice among various options, including

Section 2.2 of the model order. The court should modify the order to fit the circumstances of the parties and needs of the children.

APPENDIX A. Model Order for Parenting Coordination.

The following is a suggested Model Order Appointing Parenting Coordinator, which may be used in implementing these rules.

APPENDIX B. Model Order For Parallel Parenting